

Case 3:22-cv-00068-DCLC-DCP Document 1 Filed 02/21/22 Page 1 of 4 PageID #: 1

2. The above-described action is a civil action in which this Court has original jurisdiction pursuant to 28 U.S.C. §1332(a) as all parties are citizens of different states. Plaintiff is a citizen and resident of Georgia. (Exhibit 1, Complaint, Paragraph I).

3. No Defendant is a citizen of the State of Georgia, nor of the State of Tennessee. Defendant Mark Smith is a Citizen and Resident of the Commonwealth of Virginia.

4. Defendant K-VA-T Food Stores, Inc., is a Virginia Corporation, with its principal place of business in Abingdon, Virginia. (See Exhibit 2, print-out from Secretary of State's office for Commonwealth of Virginia). For purposes of 28 U.S.C. §1332(a), a corporation is a "citizen" of the state(s) where it is incorporated and of the State ...where it has its principal place of business. (28 U.S.C. §1332(c)(1). *Hertz Corp. v. Friend*, 559 U.S. 77, 80-81, 130 S. Ct. 1181, 175 L. Ed. 2d 1029 (2010). Thus, Defendant K-VA-T Food Stores, Inc., is a citizen of Virginia.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1446(a), in that this District embraces the place where this action is pending.

4. Defendant Smith was served with the Complaint on February 11, 2022, and therefore, the time period within which the Defendant is required to file this Notice of Removal, pursuant to 28 U.S.C. § 1446(b), has not yet expired and removal is timely.

5. Defendant K-VA-T Food Stores, Inc., consents to this removal pursuant to 28 U.S.C. 1446(2)(A).

6. Notice of the filing of this pleading will be given to the Plaintiff and to the Circuit Court of Loudon County as required by 28 U.S.C. § 1446(d) (see Exhibit 3).

7. The requisite filing fee for the institution of an action in Federal Court is submitted with this Notice, along with the Civil Cover Sheet.

WHEREFORE, the Defendant Smith files this Notice of Removal for the purpose of removing this action from the Circuit Court for Loudon County, Tennessee to the United States District Court for the Eastern District of Tennessee at Knoxville and prays that the above-described action be removed therefrom to this Court.

Respectfully submitted this the 21st day of February, 2022.

By: Mary C. Moffatt
J. Eric Harrison (BPR #016129)
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VERIFICATION AND CERTIFICATE OF SERVICE

I, Mary Moffatt hereby state that the law firm of Wimberly Lawson Wright Daves & Jones is the attorney of record for the Defendant Mark Smith in the above-captioned cause, and being authorized to do so, have read the foregoing Notice of Removal and know the contents thereof and that the same are true to my knowledge. This will also constitute signature of this Notice of Removal in accordance with the Tennessee and Federal Rules of Civil Procedure 11.

I further verify that I have this date served by U.S. mail, postage prepaid, a true and exact copy of this Notice of Removal and attached exhibits upon: Plaintiff's counsel, Allen M. Gressett, Esq. Schwed, Adams, Sobel & McGinley, 88 Union Avenue, Suite 1100, Memphis TN 38103.

s/Mary Moffatt
Mary Moffatt